

## Agricultural Marketing Service, USDA

## § 966.113

### GENERAL

#### § 966.100 Communications.

Unless otherwise provided in the marketing agreement and order, or by specific direction of the committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order shall be addressed to the Florida Tomato Committee at its principal office.

### DEFINITIONS

#### § 966.110 Order.

*Order* means Order No. 966 (§§ 966.1 to 966.92) regulating the handling of tomatoes grown in Florida.

#### § 966.111 Marketing Agreement.

*Marketing Agreement* means Marketing Agreement No. 125.

#### § 966.112 Terms.

Terms used in this subpart shall have the same meaning as when used in the marketing agreement and order.

#### § 966.113 Registered handler certification.

Each handler who handles tomatoes grown in the production area must be certified as a registered handler by the committee in order to ship such tomatoes outside of the regulated area. A handler who is certified as a registered handler is a handler who has adequate facilities to meet the requirements for preparing tomatoes for market, obtains inspection on tomatoes handled, agrees to handle tomatoes in compliance with the order's grade, size and container requirements, pays applicable assessments on a timely basis, submits reports required by the committee, and agrees to comply with other regulatory requirements on the handling of tomatoes grown in the production area.

(a) Based on the criteria specified in this section, the committee shall determine eligibility for certification as a registered handler. The committee or its authorized agent shall inspect a handler's facilities to determine if the facilities are adequate for preparing tomatoes for market. In order to be adequate for such purposes, the facilities must be permanent, nonportable build-

ings located in the production area with equipment that is nonportable for the proper washing, grading, sizing and packing of tomatoes grown in the production area.

(b) Application for certification shall be executed by the handler and filed with the committee on a form, prescribed by and available at the principal office of the committee, containing the following information:

(1) Business name,

(2) Address of handling facilities (including telephone and facsimile number),

(3) Mailing address (if different from handling facility),

(4) Number of years in tomato business in Florida,

(5) Type of business, and

(6) Names of senior officers, partners, or principal owners with financial interest in the business.

(c) If the committee determines from available information that an applicant meets the criteria specified in this section, such applicant shall be certified as a registered handler and shall be so informed by written notice from the committee. If certification is denied, such denial shall be made by the committee in writing, stating the reasons for denial.

(d) A registered handler's certification shall be cancelled by the committee, with the approval of the Secretary, if the handler fails to pay assessments within 45 days of the end of the assessment billing period, fails to provide reports, or no longer has adequate facilities as described in this section. Cancellation of a handler's registration shall be made in writing to the handler and shall specify the reason(s) for and effective date of such cancellation. The committee shall recertify the handler's registration at such time as the handler corrects the deficiencies which resulted in the cancellation. Certification is permanent until the committee determines, based on criteria herein, that cancellation is warranted. Persons who make deliveries of ungraded tomatoes to such certified registered handlers are hereby determined to be exempt from otherwise applicable regulations pursuant to this part.

## § 966.120

(e) During any period in which the handling of tomatoes is regulated pursuant to this part, no handler shall obtain an inspection certifying that said handler's tomatoes meet the requirements of the marketing order unless said handler has been certified as a registered handler. Any person who is not certified as a registered handler may receive inspection on tomatoes from the Federal-State Inspection Service. Such inspection certificate shall state "Fails to meet the requirements of Marketing Order No. 966 because the handler is not a registered handler."

[59 FR 51090, Oct. 7, 1994]

### SAFEGUARDS

#### § 966.120 Application for Certificate of Privilege.

(a) Whenever handling is regulated pursuant to § 966.54, each handler desiring to make shipments of tomatoes for any of the following purposes shall, prior thereto, apply to the committee for and obtain a Certificate of Privilege permitting such shipment:

- (1) For pickling, or
- (2) For processing, or
- (3) For experimental purposes, or
- (4) For relief or charity, or
- (5) For export, or

(6) For other purposes which may be specified by the committee, with the approval of the Secretary.

(b) Applications for Certificates of Privilege shall be made on forms furnished by the committee. Each application shall contain the name and address of the handler, and such other information as such committee may require, such as, but not limited, to the quantity (by grade, size, quality, and variety) of tomatoes to be shipped, the mode of transportation, consignee, destination, and other appropriate information or documents necessary to safeguard against the entry of such tomatoes into trade channels other than those for which the Certificate of Privilege is granted.

[21 FR 353, Jan. 19, 1956. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 59 FR 51091, Oct. 7, 1994]

#### § 966.121 Issuance.

The committee, or its duly authorized agents, shall give prompt consider-

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ation to each application for a Certificate of Privilege and shall determine whether the application is approved. Approval of an application shall be evidenced by the issuance of a Certificate of Privilege authorizing the applicant named therein to ship tomatoes for a specified purpose for a specified period of time.

#### § 966.122 Reports.

Each handler handling tomatoes under and pursuant to a Certificate of Privilege shall supply the committee with a report thereon within the time specified on the application for such certificate showing the name and address of the shipper, car or truck identification, loading point, destination, consignee, and, when inspection is required, the Federal-State Inspection Certificate number.

#### § 966.123 Denial and appeal.

The committee may rescind a Certificate of Privilege issued to a handler, or deny a Certificate of Privilege to a handler, upon proof satisfactory to such committee, that such handler has shipped tomatoes contrary to the provisions of this part. Such committee action denying a Certificate of Privilege shall apply to and not exceed a reasonable period of time as determined by such committee. Any handler who has been denied a Certificate of Privilege, or who has had a Certificate of Privilege rescinded, may appeal to the committee for reconsideration. Such appeal shall be in writing.

### EXEMPTION PROCEDURES

#### § 966.130 Application.

Any person applying for exemption from regulations issued pursuant to § 966.52 shall file such application with the committee, or its duly authorized agent for such purpose, on forms to be furnished by such committee. Each application shall state the name and address of the applicant, the grade, size, and quality regulations from which exemption is requested; and facts demonstrating that the tomatoes, for which exemption is requested, were adversely affected by acts beyond his control or by acts beyond the applicant's reasonable expectation. Applications